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Accused Spy Seeks Trial in Seattle

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Lawyers for accused spy Richard Craig Smith yesterday asked a federal judge in Alexandria to move Smith's espionage trial to Seattle, where they contend FBI surveillance of Smith was so heavy that it constituted a de facto arrest before his formal arrest at Dulles International Airport several weeks later.

Federal law provides that an individual charged with committing crimes outside the United States be prosecuted in the district where he is first arrested.

Smith, 40, a former Army counterintelligence specialist, is accused of providing the identities of six U.S. double agents to a Soviet KGB officer in Tokyo in exchange for \$11,000.

Smith testified yesterday that the around-the-clock FBI surveillance at the Bellevue, Wash., home where he resided with his wife, four children and parents in the two months before his formal arrest April 4 was so heavy that "if I had stopped [my] car, they [the FBI cars] would have been stacked up three at a time."

The arguments were part of a pretrial hearing to determine admissibility of evidence and to answer numerous other requests by Smith's attorneys.

If convicted on the espionage charge of transmitting national defense information to a Soviet agent, Smith could be sentenced to life in prison. His trial has been set for July 9.

Smith has not denied the transactions, but contends that his actions were part of an operation directed and supervised by the Central Intelligence Agency. He also has said that the information he provided was not damaging to national security.

The CIA has declined comment because of the pending litigation.

Federal prosecutors say Smith should be tried in Alexandria because he was arrested at Dulles Airport, which is within the jurisdiction of Virginia's eastern district.

But lawyer A. Brent Carruth, one of Smith's two attorneys, told U.S. District Judge Richard L. Williams yesterday that the FBI surveillance "clearly re-

strained [Smith] of his liberty" and that he was, in fact, in custody. Both Smith and his father, Hyrum M. Smith, testified yesterday that the FBI's constant presence in Bellevue was comparable to the 24-hour FBI surveillance Smith has

been under since he was released on \$500,000 bond on May 8.

FBI agent Michael Waguespack, who supervised the FBI investigation, testified that the "hip-pocket surveillance" in Bellevue only prevented Smith from leaving the country.

Judge Williams is not expected to rule on the motion to move the trial until June 15. At that time, FBI agents based in Seattle are expected to testify about their surveillance of Smith.

The judge also is expected to hear additional arguments concerning whether the FBI misled Smith before his arrest, convincing him that he was still part of the intelligence community and not a criminal suspect. Smith left Army intelligence in January 1980.

Defense attorney William B. Cummings said that during FBI interviews with Smith beginning in November 1983, Smith was led to believe "he was still part of the team." If so, Cummings said, Smith's statements to the FBI, which constitute most of the government's case, should not be allowed as evidence.

Judge Williams denied a defense request to suppress Smith's statements to the FBI and CIA on the grounds that he was not advised of his rights against incrimination.

He also denied a request to allow Smith to travel to California to be examined by a clinical psychologist chosen by the defense. Smith's attorneys have said they are considering a possible insanity defense.